

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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THE ANNUITY, WELFARE, AND SAFETY FUNDS OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 15, 15A, 15C & 15D, AFL-CIO, BY THEIR TRUSTEES JAMES T. CALLAHAN, THOMAS A. CALLAHAN, MICHAEL SALGO and DENISE M. RICHARDSON, CENTRAL PENSION FUND OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS, BY ITS CHIEF EXECUTIVE OFFICER MICHAEL R. FANNING, and INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 15, 15A, 15C & 15D, AFL-CIO BY ITS PRESIDENT & BUSINESS MANAGER THOMAS A. CALLAHAN,

FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
SEP 14 2018 ☆

BROOKLYN OFFICE

NOT FOR PUBLICATION  
**MEMORANDUM & ORDER**  
17-CV-4397 (CBA) (RLM)

Plaintiff,

-against-

BARBELLA ENVIRONMENTAL TECHNOLOGY, INC.

Defendant.

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**AMON, United States District Judge:**

Plaintiffs—trustees for various employee benefit funds (collectively, the “Local 15 Trust Funds”) of the International Union of Operating Engineers Local 15, 15A, 15C & 15D, AFL-CIO (“Local 15”), and officers of Local 15 and the Central Pension Fund of the International Union of Operating Engineers (“CPF”)—filed the instant action against Defendant Barbella Environmental Technology, Inc. (“Barbella”). Plaintiffs allege that Barbella failed to remit contributions required pursuant to collective bargaining agreements, in violation of the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1001 et seq., and Section 301 of the Labor

Management Relations Act of 1947 (“LMRA”), 29 U.S.C. § 185 *et seq.* (*See generally* D.E. # 1 (“Compl.”).) Barbella did not respond to the Complaint. (*See* D.E. # 5.) The Clerk of the Court entered default on September 5, 2017. (D.E. # 7 at 1.) Plaintiffs moved for default judgment seeking an award of delinquent payments, interest, damages, attorney’s fees, and costs. (D.E. # 8.) The Court referred the motion to the Honorable Roanne L. Mann, Chief United States Magistrate Judge, for a Report and Recommendation (“R&R”). Chief Magistrate Judge Mann recommended that the Court enter default judgment against Barbella for ERISA and LMRA violations. (D.E. # 17.) In addition to recommending default judgment, Chief Magistrate Judge Mann recommended damages. A full accounting of those damages can be found on Page 20 of the R&R.

No party has objected to the R&R and the time has passed for doing so. The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). The Court may accept portions of the R&R so long as there is “no clear error on the face of the record.” *Jarvis v. N. Am. Globex Fund, L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (quoting *Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003)).

After careful review of the record, the Court adopts Chief Magistrate Judge Mann’s thorough R&R as the opinion of the Court. Accordingly, the Court grants Plaintiffs’ motion for default judgment and awards damages in accordance with Page 20 of the R&R. The Clerk of Court is directed to close this case.

SO ORDERED.

Dated: September 13, 2018  
Brooklyn, New York

s/  
Carol Bagley Amon  
Carol Bagley Amon  
United States District Judge